

AMENDED IN ASSEMBLY SEPTEMBER 9, 2003

AMENDED IN ASSEMBLY JUNE 26, 2003

SENATE BILL

No. 178

Introduced by Senator ~~Cedillo~~ Torlakson
(Principal coauthor: Assembly Member Steinberg)

February 12, 2003

~~An act to amend Section 1954.53 of the Civil Code, relating to rent control. An act relating to land use.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 178, as amended, ~~Cedillo~~ Torlakson. ~~Rent control~~ Land use.

Assembly Bill 1426 of the 2003–04 Regular Session would require, until January 1, 2011, except as specified, every city and every county within the greater Sacramento region, as defined, that issues building permits for residential units to require or otherwise cause at least 5% of the aggregate amount of these new residential units to be affordable to, and occupied by, very low income households, and at least 5% of the aggregate amount of these new residential units to be affordable to, and occupied by, low-income households, as specified.

This bill would specify that these provisions are not operative until a plan to finance them is enacted.

The existing Costa-Hawkins Rental Housing Act allows an owner of residential real property to establish the initial rental rate for a dwelling or unit, except in prescribed situations.

This bill would include as an exception to that authorization upon an offer of specified incentives or concessions, a rent restriction pursuant to a requirement of a public entity that developers of new units restrict the rents and incomes of occupants for a portion of the units.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1.—Section 1954.53 of the Civil Code is amended~~
2 ~~SECTION 1. Chapter 4.6 (commencing with Section 65965)~~
3 ~~of Division 1 of Title 7 of the Government Code as added by~~
4 ~~Assembly Bill 1426 of the 2003–04 Regular Session, as amended~~
5 ~~in the Senate on September 8, 2003, is not operative until a plan~~
6 ~~to finance its provisions is enacted.~~
7 ~~to read:~~
8 ~~1954.53.—(a) Notwithstanding any other provision of law, an~~
9 ~~owner of residential real property may establish the initial rental~~
10 ~~rate for a dwelling or unit, except where any of the following~~
11 ~~applies:~~
12 ~~(1) The previous tenancy has been terminated by the owner by~~
13 ~~notice pursuant to Section 1946 or has been terminated upon a~~
14 ~~change in the terms of the tenancy noticed pursuant to Section 827,~~
15 ~~except a change permitted by law in the amount of rent or fees. For~~
16 ~~the purpose of this paragraph, the owner's termination or~~
17 ~~nonrenewal of a contract or recorded agreement with a~~
18 ~~governmental agency that provides for a rent limitation to a~~
19 ~~qualified tenant, shall be construed as a change in the terms of the~~
20 ~~tenancy pursuant to Section 827.~~
21 ~~(A) In a jurisdiction that controls by ordinance or charter~~
22 ~~provision the rental rate for a dwelling or unit, an owner who~~
23 ~~terminates or fails to renew a contract or recorded agreement with~~
24 ~~a governmental agency that provides for a rent limitation to a~~
25 ~~qualified tenant shall not be eligible to set an initial rent for three~~
26 ~~years following the date of the termination or nonrenewal of the~~
27 ~~contract or agreement. For any new tenancy established during the~~
28 ~~three-year period, the rental rate for a new tenancy established in~~
29 ~~that vacated dwelling or unit shall be at the same rate as the rent~~
30 ~~under the terminated or nonrenewed contract or recorded~~
31 ~~agreement with a governmental agency that provided for a rent~~
32 ~~limitation to a qualified tenant, plus any increases authorized after~~
33 ~~the termination or cancellation of the contract or recorded~~
34 ~~agreement.~~

~~(B) Subparagraph (A) shall not apply to any new tenancy of 12 months or more duration established after January 1, 2000, pursuant to the owner's contract or recorded agreement with a governmental agency that provides for a rent limitation to a qualified tenant unless the prior vacancy in that dwelling or unit was pursuant to a nonrenewed or canceled contract or recorded agreement with a governmental agency that provides for a rent limitation to a qualified tenant as set forth in that subparagraph.~~

~~(2) The owner has otherwise agreed by contract with a public entity in consideration for a direct financial contribution or any other forms of assistance specified in Chapter 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.~~

~~(3) The initial rental rate for a dwelling or unit whose initial rental rate is controlled by an ordinance or charter provision in effect on January 1, 1995, shall not until January 1, 1999, exceed the amount calculated pursuant to subdivision (c).~~

~~(4) If a public entity offers to provide financial or any other form of incentives or concessions as specified in Chapter 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code, and the rent of the dwelling unit is restricted pursuant to a requirement of a public entity that requires developers of new units to restrict the rents and income of occupants for a portion of the units.~~

~~(b) Subdivision (a) applies to, and includes, renewal of the initial hiring by the same tenant, lessee, authorized subtenant, or authorized sublessee for the entire period of his or her occupancy at the rental rate established for the initial hiring.~~

~~(c) The rental rate of a dwelling or unit whose initial rental rate is controlled by ordinance or charter provision in effect on January 1, 1995, shall, until January 1, 1999, be established in accordance with this subdivision. Where the previous tenant has voluntarily vacated, abandoned, or been evicted pursuant to paragraph (2) of Section 1161 of Code of Civil Procedure, an owner of residential real property may, no more than twice, establish the initial rental rate for a dwelling or unit in an amount that is no greater than 15 percent more than the rental rate in effect for the immediately preceding tenancy or in an amount that is 70 percent of the prevailing market rent for comparable units, whichever amount is greater.~~

1 ~~The initial rental rate established pursuant to this subdivision~~
2 ~~shall not be deemed to substitute for or replace increases in rental~~
3 ~~rates otherwise authorized pursuant to law.~~

4 ~~(d) (1) Nothing in this section or any other provision of law~~
5 ~~shall be construed to preclude express establishment in a lease or~~
6 ~~rental agreement of the rental rates to be applicable in the event the~~
7 ~~rental unit subject thereto is sublet, and nothing in this section shall~~
8 ~~be construed to impair the obligations of contracts entered into~~
9 ~~prior to January 1, 1996.~~

10 ~~(2) Where the original occupant or occupants who took~~
11 ~~possession of the dwelling or unit pursuant to the rental agreement~~
12 ~~with the owner no longer permanently reside there, an owner may~~
13 ~~increase the rent by any amount allowed by this section to a lawful~~
14 ~~sublessee or assignee who did not reside at the dwelling or unit~~
15 ~~prior to January 1, 1996.~~

16 ~~(3) This subdivision shall not apply to partial changes in~~
17 ~~occupancy of a dwelling or unit where one or more of the~~
18 ~~occupants of the premises, pursuant to the agreement with the~~
19 ~~owner provided for above, remains an occupant in lawful~~
20 ~~possession of the dwelling or unit, or where a lawful sublessee or~~
21 ~~assignee who resided at the dwelling or unit prior to January 1,~~
22 ~~1996, remains in possession of the dwelling or unit. Nothing~~
23 ~~contained in this section shall be construed to enlarge or diminish~~
24 ~~an owner's right to withhold consent to a sublease or assignment.~~

25 ~~(4) Acceptance of rent by the owner shall not operate as a~~
26 ~~waiver or otherwise prevent enforcement of a covenant~~
27 ~~prohibiting sublease or assignment or as a waiver of an owner's~~
28 ~~rights to establish the initial rental rate unless the owner has~~
29 ~~received written notice from the tenant that is party to the~~
30 ~~agreement and thereafter accepted rent.~~

31 ~~(e) Nothing in this section shall be construed to affect any~~
32 ~~authority of a public entity that may otherwise exist to regulate or~~
33 ~~monitor the grounds for eviction.~~

34 ~~(f) This section shall not apply to any dwelling or unit if all of~~
35 ~~the following conditions are met:~~

36 ~~(1) The dwelling or unit has been cited in an inspection report~~
37 ~~by the appropriate governmental agency as containing serious~~
38 ~~health, safety, fire, or building code violations, as defined by~~
39 ~~Section 17920.3 of the Health and Safety Code, excluding any~~
40 ~~violation caused by a disaster.~~

1 ~~(2) The citation was issued at least 60 days prior to the date of~~
2 ~~the vacancy.~~

3 ~~(3) The cited violation had not been abated when the prior~~
4 ~~tenant vacated and had remained unabated for 60 days or for a~~
5 ~~longer period of time. However, the 60-day time period may be~~
6 ~~extended by the appropriate governmental agency that issued the~~
7 ~~citation.~~

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